THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date:09-03--2006

WRIT PETITION Nos.4641 OF 2006 AND 4647 OF 2006

WRIT PETITIN NO.4641 OF 2006

BETWEEN:

Golle Kanakaiah & others.

…Petitioners

And

The District Collector, Karimnagar and others.

…Respondents

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WRIT PETITIN NO.4647 OF 2006

BETWEEN:

V.Thirupathi Rao and another.

…Petitioners

And

The District Collector, Karimnagar and others.

…Respondents

COMMON ORDER:

It is stated that the land in Sy.No.58 of Seetharampur village of Karimnagar Mandal in an extent of 0-17 guntas each has been assigned in favour of the petitioners in W.P.No.4641 of 2006, vide proceedings dated 10-10-1992 and the petitioners have been cultivating the said lands in question without violating the terms and conditions of the assignment orders.

It is stated that an extent of Ac.0-37 guntas and Ac.1-20 guntas of land in the said survey number was assigned in favour of the petitioners 1 and 2 respectively in W.P.No.4647 of 2006, vide proceedings dated 10-10-1992.

It is stated that in respect of all the petitioners in both the writ petitions, show cause notices bearing No.B1/1434/05, dated 30-3-2005 in Form –I, under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules 1977 have been issued, stating that the petitioners have been found in possession of the said assigned lands in contravention of the provisions of Sub-Section (2) of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. Therefore, the petitioners were called upon to show cause within 15 days as to why they shall not be summarily evicted from the said lands.

It is stated that the said notices were served on the petitioners in W.P.No.4641 of 2006 on 6-5-2005, but they could not be served on the petitioners in W.P.No.4647 of 2006 as they are not residing in Seetharampur village and their address is not known, therefore, the the notices were affixed on the Gram Panchayat Notice Board. All the petitioners have filed their explanations in the month of May, 2005.

Though the third respondent received the explanations, but he did not consider the same on the ground that the said explanations have not been submitted within the prescribed time. Accordingly, the assignment in respect of all the petitioners, the total of the land in an extent of Ac.5-25 guntas in Sy.No.58 of Seetharampur village of Karimnagar Mandal was directed to be resumed after conducting a panchanama on the ground that as per the orders of the Government in letter No.65961/ASN-(1)/97-11, dated 8-2-1999, the tank bund lands cannot be assigned or alienated or changed in any manner or leased out and in view of the said prohibition, the land has been directed to be resumed.

I am of the opinion that the notices are issued for the alleged violation of the provisions of Sub Section 2 of Section 3 of Andhra Pradesh Assigned lands (Prohibition of Transfer) Act, 1977, whereas, the orders have been passed on the ground that the said assignment is contrary to the orders of the Government vide latter dated 8-2-1999. That was not the ground on which the lands are sought to be

resumed in the show cause notices, but the impugned orders have been passed in proceedings No.B/4152/2005, dated 29-12-2005, resuming the land on the ground other than the one, which is not mentioned in the show cause notices. I am of the opinion that the third respondent failed to consider the explanations which are available on record as on the date of passing of the final orders and orders have been passed on the ground other than the one mentioned in the show cause notices. Therefore, the impugned orders are set aside.

The writ petitions are allowed accordingly. However, it is open for the respondents to take appropriate action in accordance with law afresh. No order as to costs.

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V.ESWARAIAH,J

Date: 9-3-2006.

Shr.